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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

LEAGUE OF CONSERVATION VOTERS <i>et al.</i> ,)
)
Plaintiffs,)
)
v.) No. 3:17-cv-00101-SLG
)
DONALD J. TRUMP <i>et al.</i> ,)
)
Defendants,)
)
AMERICAN PETROLEUM INSTITUTE and STATE)
OF ALASKA,)
)
Intervenor-Defendants.)
)

**PLAINTIFFS' MOTION FOR JUDICIAL NOTICE PURSUANT TO
LOCAL RULE 7.1(d) AND FEDERAL RULE OF EVIDENCE 201**

Pursuant to Local Rule 7.1(d) and Federal Rule of Evidence 201, Plaintiffs League of Conservation Voters *et al.* hereby move the Court to take judicial notice of the following exhibits cited in the Memorandum in Support of Plaintiffs' Motion for Summary Judgment, which was filed on June 8, 2018 (Dkt. 51):

Exhibit 1 (Dkt. 51-1). Executive Order 13795: Implementing an America-First Offshore Energy Strategy, *available at* 82 Fed. Reg. 20,815 (Apr. 28, 2017).

Exhibit 2 (Dkt. 51-2). Presidential Memorandum—Withdrawal of Certain Areas of the United States Outer Continental Shelf Offshore Alaska from Leasing Disposition, *available at* 2015 Daily Comp. Pres. Docs. 59 (Jan. 27, 2015).

Exhibit 3 (Dkt. 51-3). Presidential Memorandum—Withdrawal of Certain Portions of the United States Arctic Outer Continental Shelf from Mineral Leasing, *available at* 2016 Daily Comp. Pres. Docs. 860 (Dec. 20, 2016).

Exhibit 4 (Dkt. 51-4). Presidential Memorandum—Withdrawal of Certain Areas off the Atlantic Coast on the Outer Continental Shelf from Mineral Leasing, *available at* 2016 Daily Comp. Pres. Docs. 861 (Dec. 20, 2016).

Exhibit 5 (Dkt. 51-5). The White House, Fact Sheet: President Obama Protects 125 Million Acres of the Arctic Ocean (Dec. 20, 2016), *available at*

https://www.doi.gov/sites/doi.gov/files/uploads/2016_arctic_withdrawal_fact_sheet_for_release.pdf (last visited June 5, 2018).

Exhibit 6 (Dkt. 51-6). The White House, Fact Sheet: Unique Atlantic Canyons Protected from Oil and Gas Activity (Dec. 20, 2016), *available at* https://www.doi.gov/sites/doi.gov/files/uploads/atlantic_canyons_fact_sheet_for_release.pdf (last visited June 5, 2018).

Exhibit 7 (Dkt. 51-7). The White House, President Obama Protects Untouched Marine Wilderness in Alaska (Jan. 27, 2015), *available at* <https://obamawhitehouse.archives.gov/blog/2015/01/27/president-obama-protects-untouched-marine-wilderness-alaska> (last visited June 5, 2018).

Exhibit 8 (Dkt. 51-8). Bureau of Ocean Energy Management (BOEM), 2017-2022 Outer Continental Shelf Oil and Gas Leasing Proposed Final Program Lease Sale Schedule, *available at* <https://www.boem.gov/2017-2022-Lease-Sale-Schedule> (last visited June 5, 2018).

Exhibit 9 (Dkt. 51-9). BOEM, 2012-2017 Outer Continental Shelf Oil and Gas Leasing Program Lease Sale Schedule, *available at* <https://www.boem.gov/2012-2017-Lease-Sale-Schedule> (last visited June 5, 2018).

Exhibit 10 (Dkt. 51-10). BOEM, Alaska Lease Sales, *available at* <https://www.boem.gov/Alaska-Lease-Sales> (last visited June 5, 2018).

Exhibit 11 (Dkt. 51-11). BOEM, Alaska Geologic & Geophysical Exploration Permits, *available at* <https://www.boem.gov/ak-gg-permits> (last visited June 5, 2018).

Exhibit 12 (Dkt. 51-12). BOEM, Currently Submitted Atlantic OCS Region Geological and Geophysical Permits, *available at* <https://www.boem.gov/Currently-submitted-Atlantic-OCS-Region-Permits> (last visited June 5, 2018).

Exhibit 13 (Dkt. 51-13). BOEM, Notice of Availability of the 2019-2024 Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program and Notice of Intent To Prepare a Programmatic Environmental Impact Statement, Notice and Request for Comments, *available at* 83 Fed. Reg. 829 (Jan. 8, 2018).

Exhibit 14 (Dkt. 51-14). BOEM, Outer Continental Shelf, Alaska OCS Region, Beaufort Sea, Proposed Oil and Gas Lease Sale for 2019, Call for Information and Nominations, *available at* 83 Fed. Reg. 13,778 (Mar. 30, 2018).

Exhibit 15 (Dkt. 51-15). National Marine Fisheries Service (NMFS), Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Seismic Survey in the Beaufort and Chukchi Seas, Alaska, Notice and Issuance of an Incidental Take Authorization, *available at* 77 Fed. Reg. 65,060 (Oct. 24, 2012).

Exhibit 16 (Dkt. 51-16). BOEM, Denials of Atlantic Seismic Permit Applications (Jan. 6, 2017).

Exhibit 17 (Dkt. 51-17). G. Dellagiarino *et al.*, Geological & Geophysical Data Acquisition: Outer Continental Shelf Through 2004-2005, OCS Report MMS 2007-049 (2007), *available at* https://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/Resource_Evaluation/Regulation_of_Pre-lease_Exploration/FinalGG2004-2005.pdf (last visited June 5, 2018)

Exhibit 18 (Dkt. 51-18). K. Ray & P. Godfriaux, Geological & Geophysical Data Acquisition: Outer Continental Shelf Through 2016, OCS Report BOEM 2017-02 (2017), *available at* <https://www.boem.gov/OCS-Report-BOEM-2017-02> (last visited June 5, 2018).

Exhibit 19 (Dkt. 51-19). NMFS, Effects of Oil and Gas Activities in the Arctic Ocean Final Environmental Impact Statement (Oct. 2016), *available at* http://www.nmfs.noaa.gov/pr/permits/eis/all_volumes_arctic_seismic_feis_oct_2016_final_publication_version.pdf (last visited June 5, 2018).

Exhibit 20 (Dkt. 51-20). International Association of Geophysical Contractors, News Release, *IAGC Applauds Administration's First Step to Expand Offshore Exploration, Streamline Seismic* (Apr. 28, 2017), *available at*

[https://www.iagc.org/uploads/4/5/0/7/45074397/energy_eo_statement_4.28.17_fin
al.pdf](https://www.iagc.org/uploads/4/5/0/7/45074397/energy_eo_statement_4.28.17_final.pdf) (last visited June 5, 2018)

Exhibit 38 (Dkt. 51-38). BOEM, Atlantic OCS Proposed Geological and Geophysical Activities, Mid-Atlantic and South Atlantic Planning Areas, Final Programmatic Environmental Impact Statement, OCS EIS/EA BOEM 2014-001 (2014), *available at* <https://www.boem.gov/BOEM-2014-001-v1> (last visited June 6, 2016).

Exhibit 39 (Dkt. 51-39). BOEM, Notification of and Chronology for TGS-NOPEC Geologic and Geophysical Exploration Permit Application, Alaska Region G&G Survey 18-02, *available at* <https://www.boem.gov/Alaska-Region-GandG-Survey-18-02> (last visited June 5, 2018).

The documents are provided as exhibits to Plaintiffs' Memorandum in Support of Summary Judgment, and they correspond to the exhibit numbers above.

Exhibits 1 to 19 and 38 to 39 are appropriate subjects for judicial notice because they are government documents made publicly available by government entities. *See Daniels-Hall v. Nat'l Educ. Ass'n*, 629 F.3d 992, 998 (9th Cir. 2010) ("It is appropriate to take judicial notice of this information [on government web sites], as it was made publicly available by government entities . . ."); *see also Catholic League for Religious & Civil Rights v. City and Cnty. of S.F.*, 567 F.3d

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595, 606 n.13 (9th Cir. 2009) (judicial notice appropriate for matters of public record); *United States v. Camp*, 723 F.2d 741, 744 n.** (9th Cir. 1984) (same); *Gerritsen v. Warner Bros. Entm't Inc.*, 112 F. Supp. 3d 1011, 1033-34 (C.D. Cal. 2015) (taking judicial notice of information on government websites; listing cases).

The Court may take judicial notice of the existence in the public domain of statements in Exhibit 20 because they are public statements posted on a website, the authenticity of which cannot reasonably be questioned. *See Makaeff v. Trump Univ., LLC*, 715 F.3d 254, 259 n. 2, 270 (9th Cir. 2013) (taking notice of statements in newspaper and magazine articles by Trump University for purposes of determining the existence of public debate for purposes of determining whether the university is a limited public figure); *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010); *see also O'Toole v. Northrop Grumman Corp.*, 499 F.3d 1218, 1225 (10th Cir. 2007) (“It is not uncommon for courts to take judicial notice of factual information found on the world wide web.”).

Respectfully submitted this 8th day of June, 2018.

s/ Erik Gafe

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Natural Resources Defense Council; Sierra Club;
Alaska Wilderness League; Defenders of Wildlife;
Northern Alaska Environmental Center; Resisting
Environmental Destruction on Indigenous Lands;
Center for Biological Diversity; Greenpeace, Inc.; and
The Wilderness Society*

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CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2018, a copy of the foregoing PLAINTIFFS' MOTION FOR JUDICIAL NOTICE PURSUANT TO LOCAL RULE 7.1(d) AND FEDERAL RULE OF EVIDENCE 201, with PROPOSED ORDER, was served electronically on all counsel of record using the CM/ECF system.

s/ Erik Gafe

Erik Gafe
EARTHJUSTICE

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